

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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JIMMY VIERA, as Administrator of the Estate  
of MELISSA AVILEZ,

Plaintiff,

18 **CIVIL** 9270 (KHP)

-against-

**JUDGMENT**

UNITED STATES OF AMERICA,  
Defendants.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Order dated October 1, 2020, the Court holds that Defendant breached the duty of care owed to Ms. Avilez, which proximately caused her to suffer a loss in her chances of surviving her angiosarcoma. Furthermore, the Court holds that Ms. Avilez's own behavior was an equal proximate cause for her lost chance of survival, meaning that the Defendant is only 50 percent liable for Ms. Avilez's injuries. As such, Judgment is entered in favor of Plaintiff and against the Government. But for Ms. Avilez's contributory negligence, Plaintiff would be awarded \$1 million for Ms. Avilez's pain suffering damages, \$1 million for her son's loss of parental guidance, and the agreed-upon economic losses of \$237,540, totaling \$2,237,540. However, because Ms. Avilez and Defendant are equally responsible for Ms. Avilez's injury, Plaintiff's award must be cut in half. Thus, Plaintiff is awarded \$500,000 for Ms. Avilez's pain and suffering, \$500,000 for Ms. Avilez's son's loss of parental guidance, and \$118,770 in Ms. Avilez's economic losses, for a total of \$1,118,770 in damages.

**Dated:** New York, New York  
October 2, 2020

**RUBY J. KRAJICK**

BY:

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Clerk of Court

  
Deputy Clerk